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bulk of pages in which they are contained, the topics are well and abundantly treated and thoroughly cross-referenced.

A comprehensive digest of every decision of the Court of Appeals, interpreting the innumerable acts and amendments of the law, is given, supplemented in the Compendium by many references, with digests and quotations, to Supreme Court and Surrogates' decisions. Conveniently to hand, also, is the Decedents' Estate Law and the Stock Transfer Statute.

Geoffrey Konta.

THE AMERICAN DOCTRINE OF JUDICIAL SUPREMACY. By CHARLES GROVE HAINES. Professor of Politics in Whitman College. New York: THE MACMILLAN CO. 1914. pp. xviii, 365.

Even in this time of general discussion of the powers of the courts and disapproval of their economic attitude, it is difficult for the ordinary citizen to appreciate how large a sphere is exercised by the courts in the United States in the affairs of ordinary life and in the control of governmental machinery. Whereas in practically all other governments the supreme power resides in the legislative branch, in the United States the ultimate source of power on most questions is the judiciary. As Professor Haines points out, this control springs from the Anglo-Saxon idea of the supremacy of law made by judges, and the special functions granted to them in this country, as the guardians of written constitutions. These two elements have moulded a political situation without parallel in ancient or in modern history.

The style of this work is clear throughout, and the method adopted logical and convincing, although the book is, perhaps, somewhat better adapted for use in connection with the class-room than for general reading. At first glance, the text appears overburdened by quotation. Such treatment is, however, demanded by the nature of the subject, and the criticism to which the doctrine has been subjected. Generally, attacks of this kind have been either historically inaccurate, and based on *a priori* reasoning, or the rhetorical manifestos in which our statesmen are prone to indulge. Professor Haines has corrected many of these conclusions by evidence drawn from the sources. The book is, therefore, one of the best contributions to the history of the subject, and does credit to the wide historical knowledge and genius for research displayed by the author.

Professor Haines has addressed himself to the task of tracing the history of the unique American doctrine, its bases and sources, the conflict over its establishment and maintenance, and its present scope.

As the book shows, the doctrine emerged from the idea of an "overruling law of nature or law of God, through a concept of a law fundamental and unalterable which was vitalized by Coke's theory of the supremacy of the common law courts" and finally crystallized as actual power in the hands of the judges by the conception of the judiciary as the special wardens of written constitutions. By this method the author indicates the sources from which the American people have drawn the political doctrine which has moulded our government.

The prevalence and simultaneous development of these ideas is shown by quotations from the early Colonial documents and cases. The colonies in their conflict with the mother country first announced the principle of a fundamental and overruling law as "an indispensable axiom of the public law." This principle was utilized by the colonial and early state courts to declare laws void. At first this was

done in a rather desultory fashion, by reference to the law of nature, or the fundamental charters of English liberty, until, by a process of development, there finally emerged a well-defined doctrine of the fundamental constitutional law guarded by the judiciary.

From this preface, the next step is to show the feeling in the Constitutional Convention and the opinions of the leading members. The predominance of the sentiment for a judiciary with supreme power to decide on constitutional questions is clearly set forth. The author here acknowledges his debt to Professor Beard's work, "The Supreme Court and the Constitution," where the opinions of the members of the Convention are summarized. By an examination of the decisions in the federal courts preceding *Marbury v. Madison*, Professor Haines proves that these courts were influenced by the same political and governmental ideas as were the judges in the colonial and state courts. Therefore, the principle enunciated by Chief Justice Marshall in that case was no innovation.

If the theory that the courts usurped the power to declare laws unconstitutional were not overthrown by these cases and precedents, a complete refutation is furnished by the account of the various political conflicts which have resulted from the exercise of that power. This resumé certainly proves sufficiently that there was some deep-seated desire on the part of the American people for such supreme judicial control, a control which has remained unshaken in spite of the severe conflicts over the powers of the courts resulting from the many changes in political mastery.

The author then shows that by a sparing use of its power the Court had builded firmly in the respect of the people until the late demand for progressive legislation received severe checks from the Supreme Court of the United States. During this later period the respect for the Court's opinion has been weakened by assaults on its policy, first by dissenting judges and later by laymen. These opinions are summarized in the chapter upon Recent Criticisms.

For this situation the author offers no panacea, since his purpose is historical rather than controversial or critical. But may we join him in the hope which he suggests that "a restriction of the realm within which laws may be invalidated, an easier method of changing the fundamental law, and a less hostile attitude toward legislative innovations on the part of lawyers and judges, will remove the chief grounds of complaint against the judiciary with respect to what is termed judicial legislation, and will make it possible and desirable, even to those who believe in the ultimate rule of the people, to retain in state and federal government the power of the courts to invalidate acts as a salutary check upon hasty and careless legislation."

James A. Fee, Jr.

A TREATISE ON THE AMERICAN LAW RELATING TO MINES AND MINERAL LANDS. By CURTIS H. LINDLEY of the San Francisco Bar. San Francisco: BANCROFT-WHITNEY COMPANY. 1914. Vol. I, pp. cclii, 1-730; Vol. II, 731-1685; Vol. III, 1687-2813.

The first and second editions of this work edited by Mr. Lindley were published in 1897 and 1903 respectively. The publisher's plates of the second edition were destroyed in the general conflagration following the San Francisco earthquake of 1906. Since the editing of the second edition, many hitherto disputed questions have been finally de-